

APPEAL NO. 041162
FILED JUNE 30, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on November 18, 2003. The hearing officer determined that the appellant (claimant) did not have disability resulting from the injury sustained on _____, and that the claimant is not entitled to change treating doctors to Dr. B pursuant to Section 408.022. The claimant appealed disputing both determinations. The Appeals Panel affirmed the determination regarding the change of treating doctors but reversed the determination regarding disability and remanded the case back for the hearing officer to reconsider the existing record and determine the dates of disability, if any, based on the correct standard. The claimant again appealed and the respondent (carrier) responded, urging affirmance.

DECISION

Affirmed.

Section 401.011(16) defines "disability" as "the inability because of a compensable injury to obtain and retain employment at wages equivalent to the preinjury wage." The claimant had the burden to prove that he has had disability as defined by Section 401.011(16). The claimant sustained a compensable injury on _____. On remand, the hearing officer noted that the claimant was not able to meet his burden of proof and that he did not find the claimant as credible as the employer. There was conflicting evidence presented on the disability issue. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. We cannot say that the hearing officer was incorrect as a matter of law in finding that the claimant failed to meet this burden. This is so even though another fact finder might have drawn other inferences and reached other conclusions. Salazar v. Hill, 551 S.W.2d 518 (Tex. Civ. App.-Corpus Christi 1977, writ ref'd n.r.e.).

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **INSURANCE COMPANY OF THE STATE OF PENNSYLVANIA** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS, SUITE 750, COMMODORE 1
AUSTIN, TEXAS 78701.**

Margaret L. Turner
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Gary L. Kilgore
Appeals Judge